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KaiJet Technology International
9 Limited

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 Action Star Enterprise, Co., Ltd.

13 Plaintiff,

14 v.

15 KaiJet Technology International,
16 Limited, and DOES 1 to 10,

17 Defendants.

Case No. 2:12-CV-08074-BRO-MRW

**NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT BY
DEFENDANT KAIJET
TECHNOLOGY INTERNATIONAL,
LIMITED**

Date: March 31, 2014

Time: 1:30 p.m.

Judge: Honorable Beverly Reid O'Connell

Courtroom: 14

DEMAND FOR JURY TRIAL

1 PLEASE TAKE NOTICE that on March 31, 2014, at 1:30 p.m., or as soon
 2 thereafter as this matter may be heard, in Courtroom 14, Spring St. Floor, 312 North
 3 Spring Street Los Angeles, CA 90012 of the Honorable Beverly Reid O'Connell of
 4 the United States District Court for the Central District of California, Defendant
 5 KaiJet Technology International, Limited. ("KaiJet"), will and hereby does move the
 6 Court under Fed. R. Civ. P. 56 for an order granting summary judgment on all claims
 7 asserted by Plaintiff Action Star Enterprise Co., Ltd. against KaiJet.

8 As detailed in the concurrently-filed Memorandum of Points and Authorities,
 9 this Motion is made on the grounds that: (1) Plaintiff has admitted that there is no
 10 direct infringement by the accused products; (2) Plaintiff has failed to offer any
 11 evidence supporting indirect infringement by the accused products; (3) Plaintiff has
 12 admitted the existence of substantial non-infringing uses of the accused products,
 13 which precludes a finding of contributory infringement; and (4) the asserted patent,
 14 U.S. Patent 8,099,535 ("the 535 patent"), is indefinite under 35 U.S.C. § 112.
 15 Defendant is accordingly entitled to a judgment holding that Defendant has committed
 16 no act of infringement and the 535 patent is invalid as indefinite under 35 U.S.C. §
 17 112.

18 KaiJet makes this motion following the conference of counsel pursuant to Local
 19 Rule 7-3 which took place on February 7, 2014. Counsel for KaiJet conveyed, via
 20 email, the substance of this motion and potential resolution to Plaintiff's counsel more
 21 than seven (7) days prior to this filing. The Parties were unfortunately unable to reach
 22 a resolution without the Court's intervention. *See* Declaration of Ryan W.
 23 Koppelman, ¶¶19-20 & Ex. Q.

24 This Motion is based upon this Notice of Motion, the Memorandum of Points
 25 and Authorities, Statement of Uncontroverted Facts and Conclusions of Law,
 26 Declaration of Ryan W. Koppelman, Declaration of Steven Lyu, and Proposed
 27 Judgment filed concurrently herewith in support thereof, and exhibits attached thereto,
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1 all pleadings filed, and upon such other matters and arguments as may be presented to
2 the Court at the time of the hearing.

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4 Dated: February 14, 2014

Respectfully submitted,

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6 ALSTON & BIRD LLP

7 By: /s/ Ryan W. Koppelman

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Attorneys for Defendant
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1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that all counsel of record who are deemed to have
3 consented to electronic service are being served with a copy of this document via the
4 Court's CM/ECF system this 14th day of February 2014.
5

6 /s/ Ryan W. Koppelman

7 Ryan W. Koppelman
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